

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

JOSHUA LARK,

Petitioner,

No. CIV S-05-0664 DFL JFM P

vs.

TOM CAREY, Warden,

ORDER

Respondent.

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Petitioner is a state prisoner proceeding pro se and in forma pauperis with an application for writ of habeas corpus pursuant to 28 U.S.C. § 2254. On April 6, 2006, petitioner filed a motion for appointment of counsel. In light of the complexity of the legal issues involved, the court has determined that the interests of justice require appointment of counsel. See 18 U.S.C. § 3006A(a)(2)(B); see also Weygandt v. Look, 718 F.2d 952, 954 (9th Cir. 1983). Accordingly, petitioner's motion will be granted.

On April 28, 2006, petitioner filed a motion for summary judgment. In view of the appointment of counsel, petitioner's motion will be denied without prejudice.

Accordingly, IT IS HEREBY ORDERED that:

1. Petitioner's April 6, 2006 motion for appointment of counsel is granted.
2. The Federal Defender is appointed to represent petitioner.

1 3. The Clerk of the Court is directed to serve a copy of the petition and this order
2 on David Porter, Assistant Federal Defender.

3 4. Petitioner's counsel shall contact the Clerk's Office to make arrangements for
4 copies of documents in the file.

5 5. Within forty-five days from the date of this order, the parties shall file and
6 serve a joint status report which addresses the timing and order of the following matters:

- 7 a. Discovery and investigations;
8 b. Anticipated motions;
9 c. The need for and timing of an evidentiary hearing;
10 d. Enumeration and resolution of unexhausted claims; and
11 e. Possible future amendments to the pleadings.

12 The parties are advised that failure to timely file a status report may result in sanctions.

13 6. Petitioner's April 28, 2006 motion for summary judgment is denied without
14 prejudice.

15 DATED: May 31, 2006.

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18 UNITED STATES MAGISTRATE JUDGE